IN THE HIGH COURT OF JUDICATURE AT BOMBAY

CIVIL APPELLATE JURISDICTION

WRIT PETITION NO.5679 OF 2005

Ms.Mrunalini Chandrakant
Saitavadekar
(Mrs.Prarthana Prakash Jadhav) ..Petitioner.

Vs.

The State of Maharashtra & Ors. ..Respondents.

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Mr.N.V.Bandiwadekar for the Petitioner.

Mr.R.D.Rane, Government Pleader for Respondent Nos.1 and 2.

Mr.V.B.Nighot for Respondent Nos.3 and 4.

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CORAM : F.I.REBELLO &

DR.D.Y.CHANDRACHUD, JJ.

15th September, 2005.

P.C. :

1. The Petitioner who belongs to Hindu - Sonar caste recognized as OBC has approached this Court

on account of refusal by Respondent No.2 to grant approval as there was a backlog of six posts of S.Ts. with the management. That came to be challenged before this Court, and this Court disposed of the Petition with a direction that the Petitioner be continued as duly selected candidate till ST candidate becomes available. It is the case of the Petitioner that the management, Respondent No.3, sent requisitions to several Government agencies to send ST candidate, but received no response. There are subsequent events which need not be adverted to. It is the case of the Petitioner that thereafter he came across orders passed by this Court directing that the reservation for posts of teachers cannot exceed 34% as prescribed under Rule 9(7) of the Maharashtra Employees of Private Schools Rules. The Petitioner contends that if 34% quota is considered, there are vacancies available against which the Petitioner's appointment can be approved as Shikshan Sevak.

2. On behalf of Respondent Nos.3 and 4, a reply has been filed. In paragraph 7, it is stated that if reservation of 34% is considered, there are

8 vacancies which have yet to be filled in. One teacher by name Mr.Mahajan beloning to open category has been appointed in December, 2004 and approval to his appointment is awaited. Hence, there are 7 posts lying vacant with the management. In other words, it is clear that there are still 7 vacancies available and the Petitioner can be considered for one such vacancy, if otherwise he is eligible.

3. In the separate judgment passed today in Writ Petition 4747 of 2005 and two other petitions, we have dealt with the issue of reservation in a matter of Shikshan Sevak. We have held that the same percentage as for Assistant Teacher would also apply to appointment as Shikshan Sevak. That judgment would also cover the case of the Petitioner herein. In the light of that, the following order :

Respondent Nos.3 and 4 are directed to file a fresh application for approval to Respondent No.2. Respondent No.2 on receipt of the application for approval, to dispose of the same at

any rate within 8 weeks from today by following the law as laid down by this Court and if approval is granted, give to the Petitioner all consequential benefits which the Petitioner is entitled. Rule made absolute accordingly. There shall be no order as to costs.

(F.I.REBELLO, J.)

(DR.D.Y.CHANDRACHUD, J.)